

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

NICK DUERST,

Plaintiff,

v.

KILOLO KIJAKAZI,

Acting Commissioner of Social Security,

Defendant.

No. 6:21-cv-03322-WJE

ORDER

Before the Court is the Acting Commissioner’s motion for a final judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure that seeks to reverse the decision of the Administrative Law Judge (“ALJ”) and remand this case to the Acting Commissioner under sentence four of 42 U.S.C. §§ 405(g) and 1383(c)(3). (Doc. 11). The Acting Commissioner states that, upon remand, the ALJ will be instructed to reevaluate the evidence to comply with Eighth Circuit case law and agency regulations. (*Id.* at 1). The Acting Commissioner states further that remand would expedite administrative review of Mr. Duerst’s claim, ensure that the Acting Commissioner properly considers the claim, and could make judicial review of the claims unnecessary. (*Id.* at 1-2).

After consideration of the record, the Court finds that a remand, pursuant to sentence four, is warranted. Remand will expedite administrative review and allow the Acting Commissioner to properly consider the claim. Entry of the final judgment reversing and remanding this case will begin the appeal period, which determines the 30-day period allowing for a timely application for attorney fees under the Equal Access to Justice Act. *See* 28 U.S.C. § 2412. Accordingly, it is

ORDERED that the decision of the ALJ is reversed, and this case is remanded to the Acting Commissioner pursuant to sentence four of 42 U.S.C. §§ 405(g) and 1383(c)(3) for a proper consideration of the Plaintiff's claim, and that a final judgment be entered, pursuant to Rule 58.

Dated this 11th day of July 2022, at Jefferson City, Missouri.

Willie J. Epps, Jr.

Willie J. Epps, Jr.
United States Magistrate Judge